

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

**RAJU J. MUKHI,**

**Plaintiff,**

**v.**

**UNITED STATES OF AMERICA,**

**Defendant.**

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**Case No. 4:22-cv-00280**

**JURY DEMANDED**

**COMPLAINT FOR TAX REFUND AND ABATEMENT**

Plaintiff Raju J. Mukhi (“Plaintiff”), by and through his undersigned counsel, and for his Complaint against Defendant United States of America (“Defendant”), alleges:

**NATURE OF CASE**

1. This action seeks a tax refund under Section 7422 of the Internal Revenue Code (“IRC”) (26 U.S.C. § 7422) for the recovery of federal income tax erroneously or illegally assessed and collected by Defendant, together with interest assessed on this amount and collected from Plaintiff, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable, and the abatement of additional penalties erroneously or illegally assessed against Plaintiff but not yet collected. The taxes assessed by Defendant related to alleged civil penalties and penalties and interest related to Form 3520, Form 3520-A and Form 5471. The tax years at issue are 2002 through 2013.

**PARTIES, JURISDICTION AND VENUE**

2. Plaintiff is an individual residing in St. Louis County, Missouri.
3. Plaintiff’s Tax Identification Number is XXX-XX-8618.
4. Defendant is the United States of America.

5. Jurisdiction is conferred upon this Court by Sections 1346(a)(1) and 1491(a)(1) of Title 28 of the United States Code, and by sections 6532 and 7422 of the IRC, 26 U.S.C. §§ 6532 and 7422.

6. Venue is proper pursuant to 28 U.S.C. § 1391.

### **FACTUAL BACKGROUND**

7. On September 7, 2017, the Internal Revenue Service (“IRS”) issued an assessment to Plaintiff in the amount of \$120,000 for alleged Form 5471 penalties for tax years 2002 through 2013.

8. On September 6, 2017, the IRS issued an assessment to Plaintiff in the amount of \$10,999,868 for alleged Form 3520 and Form 3520-A penalties related to tax years 2005 through 2010.

9. On April 1, 2020, Plaintiff filed twelve (12) Forms 843, Claim for Refund and Request for Abatement, related to alleged Form 5471 penalties. Copies of the submission and enclosures are attached hereto as Exhibit A and incorporated by reference. Below is a summary of each of the Forms 843 submitted by Plaintiff:

<b>Tax Year</b>	<b>Penalty</b>	<b>Amount to be Refunded</b>	<b>Amount to be Abated</b>
2002	5471	\$10,000.00	\$10,000.00
2003	5471	\$10,000.00	\$10,000.00
2004	5471	\$10,000.00	\$10,000.00
2005	5471	\$5,000.00	\$10,000.00
2006	5471	\$5,000.00	\$10,000.00
2007	5471	\$5,000.00	\$10,000.00
2008	5471	\$5,000.00	\$10,000.00
2009	5471	\$5,000.00	\$10,000.00
2010	5471	\$5,000.00	\$10,000.00
2011	5471	\$5,000.00	\$10,000.00
2012	5471	\$5,000.00	\$10,000.00
2013	5471	\$5,000.00	\$10,000.00

10. As explained more fully in Plaintiff's Forms 843, Plaintiff's Claim for Refund and Request for Abatement related to alleged Form 5471 penalties is based on the following: (1) the Government cannot sustain its burden of proving that Plaintiff had an obligation to file Forms 5471 in the relevant tax years; (2) the Government's assertion of Form 5471 penalties is inconsistent with its position in a prior proceeding; and (3) to the extent Plaintiff was required to file a Form 5471 in the relevant tax years, reasonable cause exists to excuse Plaintiff's non-filing.

11. Simultaneously with the submission of the Forms 843 referenced in Paragraph 9, Plaintiff submitted payment to the U.S. Treasury related to alleged Form 5471 penalties. Below is a summary of the payments:

<b>Check Number</b>	<b>Check Amount</b>	<b>To be applied to Tax Year:</b>	<b>To be applied to Penalty:</b>
1261	\$5,000.00	2005	5471
1262	\$5,000.00	2006	5471
1263	\$5,000.00	2007	5471
1264	\$5,000.00	2008	5471
1265	\$5,000.00	2009	5471
1266	\$5,000.00	2010	5471
1267	\$5,000.00	2011	5471
1268	\$5,000.00	2012	5471
1269	\$5,000.00	2013	5471

12. In 2019, the Form 5471 penalties for tax years 2002, 2003 and 2004 were fully paid when the IRS took a \$30,000 tax refund due to Plaintiff from overpayment of his 2011 income taxes and applied \$10,000 of the refund to satisfy the 2002 Form 5471 penalty, \$10,000 of the refund to satisfy the 2003 Form 5471 penalty, and \$10,000 of the refund to satisfy the 2004 Form 5471 penalty.

13. Defendant deposited Checks 1261 through 1269 on or about April 19, 2020.

14. On April 1, 2020, Plaintiff filed ten (10) Forms 843, Claim for Refund/Request for Abatement, related to alleged Form 3520 and Form 3520-A penalties. Copies of the submission

and enclosures are attached hereto as Exhibit B and incorporated by reference. Below is a summary of each of the Forms 843 submitted by Plaintiff with respect to the Form 3520 and Form 3520A penalties:

<b>Tax Year</b>	<b>Penalty</b>	<b>Amount to be Refunded</b>	<b>Amount to be Abated</b>
2005	3520	\$5,000.00	\$1,639,975.00
2006	3520	\$5,000.00	\$991,148.00
2007	3520	\$5,000.00	\$798,624.00
2008	3520	\$5,000.00	\$1,649,702.00
2005	3520-A	\$5,000.00	\$791,273.00
2006	3520-A	\$5,000.00	\$2,281,882.00
2007	3520-A	\$5,000.00	\$2,137,028.00
2008	3520-A	\$5,000.00	\$469,496.00
2009	3520-A	\$118,118.00	\$118,118.00
2010	3520-A	\$5,000.00	\$122,622.00

15. As explained more fully in Plaintiff's Forms 843, Plaintiff's Claim for Refund and Request for Abatement related to alleged Form 3520 and 3520-A penalties is based on the following: (1) the Government failed to meet its burden to demonstrate that the Sukhmani Gurkukh Nivas Foundation is a Foreign Trust; (2) the Government's assertion of Form 3520 and 3520-A penalties is inconsistent with its position in a prior proceeding; (3) the alleged penalties violate Plaintiff's rights under the Fifth and Eighth Amendments to the Constitution of the United States; (4) to the extent Plaintiff was required to file Forms Form 3520 and 3520-A for the relevant tax years, reasonable cause exists to excuse Plaintiff's non-filing; and (5) the penalty amounts, if penalties are valid, were improperly calculated.

16. Simultaneously with the submission of the Forms 843, referenced in Paragraph 14, Plaintiff submitted payment to the U.S. Treasury related to alleged Form 3520 and Form 3520-A penalties. Below is a summary of the payments:

Check Number	Check Amount	To be applied to Tax Year:	To be applied to Penalty:
1270	\$5,000.00	2005	3520
1271	\$5,000.00	2006	3520
1272	\$5,000.00	2007	3520
1273	\$5,000.00	2008	3520
1274	\$5,000.00	2005	3520-A
1275	\$5,000.00	2006	3520-A
1276	\$5,000.00	2007	3520-A
1277	\$5,000.00	2008	3520-A
1278	\$118,118.00	2009	3520-A
1279	\$5,000.00	2010	3520-A

17. On or about June 17, 2020, Forms 843 and checks 1274 through 1279 related to alleged Form 3520 and Form 3520-A penalties were returned to Plaintiff with no cover letter or explanation.

18. On June 18, 2020, Plaintiff re-submitted Forms 843 and checks 1274 through 1279 related to alleged Form 3520 and Form 3520-A penalties. A copy of the cover letter without enclosures is attached hereto as Exhibit C and incorporated by reference.

19. Defendant deposited Checks 1270 through 1273 on or about June 19, 2020.

20. To date, checks 1274 through 1279 have not been deposited.

21. To date, the IRS has not rendered a decision with respect to any of Plaintiff's Forms 843 for the alleged Form 5471, 3520, and 3520-A penalties or issued a refund to Plaintiff.

**COUNT I - CLAIM FOR REFUND**  
**(Refund and Abatement Form 5471, Tax Year 2002)**

22. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

23. Plaintiff paid but should not have been assessed a Form 5471 penalty in the amount of \$10,000.00 for the year 2002.

24. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

25. Plaintiff has met all jurisdictional requirements.

26. Plaintiff is entitled to a refund.

27. As a result, Plaintiff has been damaged in an amount not less than \$10,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$10,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT II - CLAIM FOR REFUND**  
**(Refund and Abatement Form 5471, Tax Year 2003)**

28. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

29. Plaintiff paid but should not have been assessed a Form 5471 penalty in the amount of \$10,000.00 for the year 2003.

30. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

31. Plaintiff has met all jurisdictional requirements.

32. Plaintiff is entitled to a refund.

33. As a result, Plaintiff has been damaged in an amount not less than \$10,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$10,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT III - CLAIM FOR REFUND**  
**(Refund and Abatement Form 5471, Tax Year 2004)**

34. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

35. Plaintiff paid but should not have been assessed a Form 5471 penalty in the amount of \$10,000.00 for the year 2004.

36. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

37. Plaintiff has met all jurisdictional requirements.

38. Plaintiff is entitled to a refund.

39. As a result, Plaintiff has been damaged an amount not less than \$10,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$10,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;

- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT IV - CLAIM FOR REFUND**  
**(Refund and Abatement Form 5471, Tax Year 2005)**

40. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

41. Plaintiff was assessed a Form 5471 penalty in the amount of \$10,000.00 for the year 2005, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 5471 penalty for the year 2005.

42. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

43. Plaintiff has met all jurisdictional requirements.

44. Plaintiff is entitled to a refund.

45. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.



**COUNT V - CLAIM FOR REFUND**  
**(Refund and Abatement Form 5471, Tax Year 2006)**

46. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

47. Plaintiff was assessed a Form 5471 penalty in the amount of \$10,000.00 for the year 2006, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 5471 penalty for the year 2006.

48. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

49. Plaintiff has met all jurisdictional requirements.

50. Plaintiff is entitled to a refund.

51. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT VI - CLAIM FOR REFUND**  
**(Refund and Abatement Form 5471, Tax Year 2007)**

52. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

53. Plaintiff was assessed a Form 5471 penalty in the amount of \$10,000.00 for the year 2005, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 5471 penalty for the year 2007.

54. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

55. Plaintiff has met all jurisdictional requirements.

56. Plaintiff is entitled to a refund.

57. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT VII - CLAIM FOR REFUND**  
**(Refund and Abatement Form 5471, Tax Year 2008)**

58. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

59. Plaintiff was assessed a Form 5471 penalty in the amount of \$10,000.00 for the year 2008, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 5471 penalty for the year 2008.

60. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

61. Plaintiff has met all jurisdictional requirements.

62. Plaintiff is entitled to a refund.

63. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT VIII - CLAIM FOR REFUND**  
**(Refund and Abatement Form 5471, Tax Year 2009)**

64. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

65. Plaintiff was assessed a Form 5471 penalty in the amount of \$10,000.00 for the year 2009, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 5471 penalty for the year 2009.

66. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

67. Plaintiff has met all jurisdictional requirements.

68. Plaintiff is entitled to a refund.

69. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT IX - CLAIM FOR REFUND**  
**(Refund and Abatement Form 5471, Tax Year 2010)**

70. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

71. Plaintiff was assessed a Form 5471 penalty in the amount of \$10,000.00 for the year 2010, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 5471 penalty for the year 2010.

72. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

73. Plaintiff has met all jurisdictional requirements.

74. Plaintiff is entitled to a refund.

75. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;

- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT X - CLAIM FOR REFUND**  
**(Refund and Abatement Form 5471, Tax Year 2011)**

76. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

77. Plaintiff was assessed a Form 5471 penalty in the amount of \$10,000.00 for the year 2011, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 5471 penalty for the year 2011.

78. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

79. Plaintiff has met all jurisdictional requirements.

80. Plaintiff is entitled to a refund.

81. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and

- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT XI - CLAIM FOR REFUND**  
**(Refund and Abatement Form 5471, Tax Year 2012)**

82. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

83. Plaintiff was assessed a Form 5471 penalty in the amount of \$10,000.00 for the year 2012, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 5471 penalty for the year 2012.

84. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

85. Plaintiff has met all jurisdictional requirements.

86. Plaintiff is entitled to a refund.

87. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT XII - CLAIM FOR REFUND**  
**(Refund and Abatement Form 5471, Tax Year 2013)**

88. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

89. Plaintiff was assessed a Form 5471 penalty in the amount of \$10,000.00 for the year 2013, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 5471 penalty for the year 2013.

90. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

91. Plaintiff has met all jurisdictional requirements.

92. Plaintiff is entitled to a refund.

93. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT XIII – CLAIM FOR REFUND**  
**(Refund and Abatement Form 3520, Tax Year 2005)**

94. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

95. Plaintiff was assessed a Form 3520 penalty in the amount of \$1,639,975.00 for the year 2005, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 3520 penalty for the year 2005.

96. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

97. Plaintiff has met all jurisdictional requirements.

98. Plaintiff is entitled to a refund.

99. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT XIV - CLAIM FOR REFUND**  
**(Refund and Abatement Form 3520, Tax Year 2006)**

100. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

101. Plaintiff was assessed a Form 3520 penalty in the amount of \$991,148.00 for the year 2006, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 3520 penalty for the year 2006.



102. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

103. Plaintiff has met all jurisdictional requirements.

104. Plaintiff is entitled to a refund.

105. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT XV - CLAIM FOR REFUND**  
**(Refund and Abatement Form 3520, Tax Year 2007)**

106. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

107. Plaintiff was assessed a Form 3520 penalty in the amount of \$798,624.00 for the year 2007, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 3520 penalty for the year 2007.

108. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

109. Plaintiff has met all jurisdictional requirements.

110. Plaintiff is entitled to a refund.

111. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT XVI - CLAIM FOR REFUND**  
**(Refund and Abatement Form 3520, Tax Year 2008)**

112. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

113. Plaintiff was assessed a Form 3520 penalty in the amount of \$1,649,702.00 for the year 2008, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 3520 penalty for the year 2008.

114. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

115. Plaintiff has met all jurisdictional requirements.

116. Plaintiff is entitled to a refund.

117. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;

- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT XVII - CLAIM FOR REFUND**  
**(Refund and Abatement Form 3520-A, Tax Year 2005)**

118. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

119. Plaintiff was assessed a Form 3520-A penalty in the amount of \$791,273.00 for the year 2005, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 3520 penalty for the year 2005.

120. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

121. Plaintiff has met all jurisdictional requirements.

122. Plaintiff is entitled to a refund.

123. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and

- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT XIII - CLAIM FOR REFUND**  
**(Refund and Abatement Form 3520-A, Tax Year 2006)**

124. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

125. Plaintiff was assessed a Form 3520-A penalty in the amount of \$2,281,882.00 for the year 2006, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 3520 penalty for the year 2006.

126. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

127. Plaintiff has met all jurisdictional requirements.

128. Plaintiff is entitled to a refund.

129. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT XIX - CLAIM FOR REFUND**  
**(Refund and Abatement Form 3520-A, Tax Year 2007)**

130. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

131. Plaintiff was assessed a Form 3520-A penalty in the amount of \$2,137,028.00 for the year 2007, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 3520 penalty for the year 2007.

132. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

133. Plaintiff has met all jurisdictional requirements.

134. Plaintiff is entitled to a refund.

135. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT XX - CLAIM FOR REFUND**  
**(Refund and Abatement Form 3520-A, Tax Year 2008)**

136. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

137. Plaintiff was assessed a Form 3520-A penalty in the amount of \$469,496.00 for the year 2008, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 3520 penalty for the year 2008.

138. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

139. Plaintiff has met all jurisdictional requirements.

140. Plaintiff is entitled to a refund.

141. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT XXI - CLAIM FOR REFUND**  
**(Refund and Abatement Form 3520-A, Tax Year 2009)**

142. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

143. Plaintiff paid but should not have been assessed a Form 3520-A penalty in the amount of \$118,118.00 for the year 2009.

144. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

145. Plaintiff has met all jurisdictional requirements.

146. Plaintiff is entitled to a refund.

147. As a result, Plaintiff has been damaged in an amount not less than \$118,118.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$118,118.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

**COUNT XXII- CLAIM FOR REFUND**  
**(Refund and Abatement Form 3520-A, Tax Year 2010)**

148. Plaintiff restates and realleges the allegations of the preceding Paragraphs as if fully set out herein.

149. Plaintiff was assessed a Form 3520-A penalty in the amount of \$122,622.00 for the year 2010, of which he has paid \$5,000.00, but Plaintiff should not have been assessed any Form 3520 penalty for the year 2010.

150. More than six months, but less than two years, have elapsed from the date Plaintiff filed his Form 843, Claim for Refund and Request for Abatement.

151. Plaintiff has met all jurisdictional requirements.

152. Plaintiff is entitled to a refund.

153. As a result, Plaintiff has been damaged in an amount not less than \$5,000.00.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- A. For a refund in the amount of \$5,000.00, plus overpayment interest on the amount to be refunded, or such greater amount as is legally refundable;
- B. Abatement of any uncollected assessments on the penalty at issue;
- C. An order requiring Defendant to suspend any efforts to collect the assessed penalty pending the outcome of this case; and
- D. Award of Plaintiff's costs, attorneys' fees, and for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

**CAPES, SOKOL, GOODMAN  
& SARACHAN, P.C.**

By: /s/ Sanford J. Boxerman

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